

No. 1978-250

AN ACT

SB 1040

Amending the act of January 14, 1952 (P.L.1898, No.522), entitled, as amended, "An act to provide for the better protection of life and health of the citizens of this Commonwealth by requiring and regulating the examination, licensure and registration of persons and registration of corporations engaging in the care, preparation and disposition of the bodies of deceased persons, and providing penalties; providing for a State Board of Funeral Directors in the Department of State, and repealing other laws," defining "full-time supervisor," providing for changes in the conduction of business, further providing for licensees under prior laws and making other changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of January 14, 1952 (P.L.1898, No.522), known as the "Funeral Director Law," is amended by adding a clause to read:

Section 2. Definitions.—The following terms as used in this act shall, unless the context indicates otherwise, have the following meanings:

* * *

(11) The term "full-time supervisor" shall mean a licensed funeral director who is a registered supervisor of no more than one funeral establishment and who is accessible to serve the public at the funeral establishment which he is supervising and is not engaged in any activity, business or profession, including assisting other funeral directors, which substantially interferes with or prevents the supervision of the practice carried on by the funeral establishment which he supervises.

Section 2. Sections 8 and 9 of the act, amended March 3, 1976 (P.L.32, No.16), are amended to read:

Section 8. Conduct of Business.—(a) Individuals and Partnerships. Except as provided for in subsection ~~[(d)]~~ (e) hereof, only one license shall be granted to or held by an individual, but two or more licensed funeral directors may operate a joint or partnership business at one place only. ~~[if the business is conducted under the names of all such licensed funeral directors. No funeral director granted a license under this act shall conduct practice under any other name than the name appearing on his license.]~~ ***No funeral practice, whether conducted by an individual or a partnership, may be conducted under any other name than the name or last name of the individual or, if a partnership, the names or last names of all partners: Provided, however, That an individual or partnership may be conducted under the name of a predecessor funeral establishment if the name or names of the owner or partners appear as operator or operators on all signs, forms and advertising.*** No person not licensed under this act shall

have any interest in the practice carried on by a licensed funeral director except as otherwise herein provided. Upon the death of a licensee, the board, in its discretion, may issue a license and renewal thereof to his estate, only for a period not exceeding three (3) years, or widows or widowers of deceased licensees as long as they remain unmarried, providing the widow, the executor or administrator of the estate of the deceased licensee's heir or heirs, informs the board, of the intent to continue practice, within ten (10) days and applies within thirty (30) days for a certificate of licensure. Such notice shall be in writing. The practice carried on by a licensee's estate, widow or widower shall be under the supervision of a licensed funeral director employed on a full time basis. **[who shall not conduct any other funeral business in his own name nor be directly or indirectly connected with any other funeral establishment.]**

(b) **Restricted Corporate License.** A corporate license may be issued to a Pennsylvania corporation which is **[organized] incorporated pursuant to the provisions of the act of May 5, 1933 (P.L.364, No.106), known as the "Business Corporation Law,"** by one or more *licensed* funeral directors specifically for the purpose of conducting a funeral directing practice **[and the name or names of such licensed funeral directors is or are contained in the corporate name].** *The name of such corporation shall contain the name or the last name of one or more of the licensed shareholders or the name of a predecessor funeral establishment.* No licensed funeral director shall be eligible to apply for more than one restricted corporate license or own shares in more than one restricted corporation. Nor shall any licensed funeral director who obtains a restricted corporate license or holds shares in a restricted corporation have any stock or proprietary interest in any other funeral establishment, *except a branch place of practice as authorized by subsection (e).* Such license shall be valid only if the following conditions exist at the time of issuance of the license and continue in effect for the license period:

(1) The corporation engages in no other business activity other than that of funeral directing and its certificate of incorporation should so specify.

(2) It holds no shares of stock or any property interest in any other **[corporation or partnership] funeral establishment.**

(3) One or more of its principal corporate officers is a person licensed as a funeral director who shall also be a member of the board of directors of the corporation and shall not conduct any other funeral business.

(4) All of its shareholders are licensed funeral directors or the members of the immediate family of a licensed funeral director or a deceased licensed funeral director who was a shareholder in the corporation at death. For the purposes of this paragraph "members of the immediate family" shall mean (i) spouse, (ii) children, (iii) grandchildren, (iv) a trustee or custodian who holds shares for the benefit of such spouse, children or grandchildren.

(5) The corporation shall have filed a registry statement with the Secretary of the Commonwealth and thereafter have duly filed its Pennsylvania corporate tax returns and paid all taxes which have been assessed and as to which there is no contest.

(6) The corporation has, for each place of business operated by it, registered with the board the name of a licensed funeral director who will serve as a full-time supervisor of such place of business.

(c) Notice of Corporate Noncompliance. Any corporation holding a restricted corporate license which shall fail to comply with all of the provisions set forth in subsection (b)(1) through (5) shall immediately give notice to the board of such failure and set forth in such notice the nature of the failure to comply and such corporation shall have a period of sixty (60) days from the date of the event which results in failure to comply in which to cure the failure and at the end of such sixty (60) day period shall either supply documentary evidence in affidavit form of the basis upon which such failure has been corrected or shall surrender its license to the board and shall forthwith desist from the conduct of the business of funeral directing.

(d) Professional Corporation License. A corporate license may be issued to a Pennsylvania corporation which is incorporated pursuant to the provisions of the act of July 9, 1970 (P.L.461, No.160), known as the "Professional Corporation Law," by one or more licensed funeral directors specifically for the purpose of conducting a funeral directing practice. No professional corporation may render funeral services unless it holds a professional corporation license issued pursuant to this subsection. The name of such professional corporation shall contain the name or the last name of one or more of the shareholders or the name of a predecessor funeral establishment. No professional corporation shall own shares of stock or any property interest in any other funeral establishment. Each professional corporation shall, for each place of business operated by it, register with the board the name of a licensed funeral director who will serve as full-time supervisor of such place of business. Nor shall any licensed funeral director who obtains a professional corporation license or holds shares in a professional corporation have any stock or proprietary interest in any other funeral establishment, except a branch place of practice as authorized by subsection (e): Provided, however, That any licensed funeral director who owned shares of more than one professional corporation prior to February 1, 1977, may maintain ownership of such shares and such corporations may be licensed.

[(d)] (e) Branch Place of Practice. Licensees authorized to conduct a funeral directing practice whether as an individual, partnership, professional corporation or restricted business corporation may [conduct business] practice at one principal place [,] and no more than one[,] branch place of [practice] business provided that a licensed funeral director is [permanently] assigned as a full-time supervisor to such branch location,

and provided that the facilities furnished at such branch location fully comply with all the provisions of this act and the rules and regulations promulgated by the board as amended from time to time. The board shall issue a separate license and require payment of a separate license fee for such branch location.

Section 9. Licensees under Prior Laws and from Other States.—(a) All undertakers' licenses issued under any prior law and being in effect on the effective date of this act shall continue, subject to the provisions of this act as to renewal, suspension and revocation and to the rules and regulations of the board. Existing licenses to corporations and partnerships and to conduct a practice under a fictitious name shall continue and may be renewed, but such corporate licenses shall not be permitted, after the effective date of this act, to operate under any name other than the name as licensed as of the date of this act, except that such corporate licenses may operate under the name or names of individual licensed funeral directors who are stockholders of said corporations. ***Such corporate licenses shall only be valid if the corporation has, for each place of business operated by it, registered with the board the name of a licensed funeral director who will serve as a full-time supervisor of such place of business.*** No original license shall be issued under this act to conduct a practice under a fictitious name.

(b) The board may grant licenses to individuals from other states if the applicants' (1) standards and qualifications for licensing are at least as high as those provided hereby, (2) similar privileges are accorded persons licensed in this Commonwealth, (3) the applicants hold valid licenses from their state of residence, and (4) the terms and conditions prescribed by the board are complied with.

Section 3. This act shall take effect in 60 days.

APPROVED—The 5th day of October, A. D. 1978.

MILTON J. SHAPP